

STD.24848

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**DAVID COLE,
Plaintiff,**

V.

**SP PLUS CORPORATION and SP+
TRANSPORTATION,
Defendants.**

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**CIVIL ACTION NO. _____
JURY**

DEFENDANT SP PLUS CORPORATION'S NOTICE OF REMOVAL

Defendant **SP PLUS CORPORATION** (in its individual capacity and incorrectly named and sued as "**SP+ TRANSPORTATION**") ("**SP Plus**")¹ files this Notice of Removal based on diversity jurisdiction under 28 U.S.C. § 1332.

I. INTRODUCTION

1. On or about July 20, 2021, Plaintiff David Cole ("Plaintiff") filed his Original Petition ("Petition") against SP Plus.

2. In his Petition, Plaintiff purports to assert a cause of action for negligence against SP Plus. Plaintiff seeks damages for pain and suffering, mental anguish, past and future medical expenses, and physical impairment, and pleads recovery in an amount over \$250,000.00 but no more than \$1,000,000.00.

II. REMOVAL OF STATE COURT ACTION

3. Under 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where

¹ Although two Defendants are named, there is only one entity, SP Plus Corporation. SP+ Transportation does not exist.

such action is pending.” As demonstrated below, this action is removable under 28 U.S.C. §1441(a) because this Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

4. This Court has diversity jurisdiction under 28 U.S.C. § 1332(a) because this action is between citizens of different states and the amount of controversy, exclusive of interest and costs, exceeds \$75,000.00.

A. Complete Diversity Exists.

5. Complete diversity exists because Plaintiff and both Defendant are citizens of different states.

6. Plaintiff is a citizen of Texas. Westlaw records show that Plaintiff is 64 years of age. He was issued his social security number in Ohio in 1963. His present address is 515 Bolding Road in Marshall, Texas. Records further show Plaintiff has a driver’s license issued by the State of Texas. Further, phone records for Plaintiff identify several phone numbers in the Texas area code of 903.

7. Defendant SP Plus is a Delaware corporation with its principal place of business in Chicago, Illinois.

8. Because Plaintiff is a citizen of Texas and Defendant is a citizen of Delaware, complete diversity exists among the parties.

B. The Amount in Controversy Exceeds \$75,000.00.

9. Plaintiff has pleaded that his damages exceed \$250,000.00²

IV. ADDITIONAL REQUIREMENTS

10. Venue for this Removal is not proper in the U.S. District Court for the Northern District of Texas, *Dallas* Division because the underlying accident occurred in the terminal areas

² See Plaintiff’s Original Petition, p. 3, ¶ 9.

of Dallas-Fort Worth International Airport in Tarrant County, Texas, which is also a part of the Northern District.³ *See* Affidavit of Fernando P. Arias. Defendant contends this matter, upon its removal, be assigned to the *Fort Worth* division.

11. Attached to or filed with this Notice of Removal are the following documents required by 28 U.S.C. § 1446(a) and N.D. TEX. LOC. R. 81.1 (these documents are hereby incorporated by reference in all respects):

- A. Affidavit of Fernando P. Arias;
- B. Civil Cover Sheet;
- C. Supplemental Civil Cover Sheet;
- D. Defendant's Index of Documents:
 - 1. State Court Docket Sheet;
 - 2. Plaintiff's Original Petition filed July 20, 2021;
 - 3. Citation issued to SP Plus on July 22, 2021 and served on July 26, 2021;
 - 4. Citation issued to SP+ Transportation on July 22, 2021 and served on July 26, 2021;
 - 5. Defendant's Motion to Transfer Venue and Subject Thereto, Original Answer filed on August 16, 2021.
- E. Defendant's Certificate of Interested Parties.

12. This Removal is timely.⁴

13. Written notice of the filing of this Removal will be provided to Plaintiff and filed with the District Clerk of Dallas County, Texas.

³ *See* 28 U.S.C. § 1441(a); 28 U.S.C. § 124(a)(1) (stating that the Dallas Division of the Northern District includes Dallas County); 28 U.S.C. § 124(a)(2) (stating that the Fort Worth Division of the Northern District includes Tarrant County).

⁴ *See* 28 U.S.C. § 1446(b).

14. This Notice of Removal is signed pursuant to FED. R. CIV. P. 11. *See* 28 U.S.C. § 1446(a).

15. Pursuant to Section 1016 of the Judicial Improvements and Access to Justice Act of 1988, no bond is required in connection with this Notice of Removal. Pursuant to Section 1016 of the Act, this Notice need not be verified.

16. In the event that Plaintiff seeks to remand this case, or the Court considers remand *sua sponte*, SP Plus respectfully requests the opportunity to submit such additional argument or evidence in support of removal as may be necessary.

17. Defendant has requested a trial by jury.

WHEREFORE, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, and this action should proceed in the United States District Court for the Northern District of Texas, as an action properly removed thereto under 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

**FLETCHER, FARLEY
SHIPMAN & SALINAS, LLP**

/s/ Fernando P. Arias

FERNANDO P. ARIAS

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ATTORNEYS FOR DEFENDANT

SP PLUS CORPORATION (in its individual capacity and incorrectly named and sued as “SP+ TRANSPORTATION”)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was electronically filed via the Court's CM/ECF system and a true and correct copy of same was delivered to all counsel of record in accordance with the FEDERAL RULES OF CIVIL PROCEDURE on this the 24th day of August, 2021.

/s/ Fernando P. Arias

FERNANDO P. ARIAS